

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

POLARIS IMAGES CORPORATION

Plaintiff,

- against -

CABLE NEWS NETWORK, INC.

Defendant.

Docket No. 18-cv-3875

JURY TRIAL DEMANDED

**COMPLAINT**

Plaintiff Polaris Images Corporation (“Polaris” or “Plaintiff”) by and through his undersigned counsel, as and for his Complaint against Defendant Cable News Network, Inc. (“CNN” or “Defendant”) hereby alleges as follows:

**NATURE OF THE ACTION**

1. This is an action for copyright infringement under Section 501 of the Copyright Act. This action arises out of Defendant’s unauthorized reproduction and public display of a copyrighted photograph of American civil rights activist Rachel Dolezal. Accordingly, Plaintiff seeks monetary relief under the Copyright Act of the United States, as amended, 17 U.S.C. § 101 *et seq.*

**JURISDICTION AND VENUE**

2. This claim arises under the Copyright Act, 17 U.S.C. § 101 *et seq.*, and this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

3. This Court has personal jurisdiction over Defendant because Defendant resides in and/or transacts business in New York.

4. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b).

**PARTIES**

5. Polaris is an independent photo agency that represents content owners around the world. Polaris has exclusive relationships with some of its contributors. Polaris has a place of business at 259 W. 30<sup>th</sup> Street, 14<sup>th</sup> Floor, New York, NY 10001.

6. Upon information and belief, CNN is a foreign business corporation duly organized and existing under the laws of Delaware with a place of business at One Time Warner Center (Columbus Circle), New York, NY 10019.

7. At all times material hereto, Defendant has owned and operated the website at the URL: [www.cnn.com](http://www.cnn.com) (the “Website”).

8. Defendant is a for-profit entity.

**STATEMENT OF FACTS**

**A. Background and Plaintiff’s Ownership of the Photograph**

9. In 2014, Rachel Dolezal took a photograph of herself (the “Photograph”). A true and correct copy of the Photograph is attached hereto as Exhibit A.

10. Dolezal, who is the author of the Photograph, then entered into an exclusive licensing agreement with Polaris, who serves as the exclusive licensing agent for the Photograph.

11. The Photograph was registered with the U.S. Copyright Office and was given Copyright Registration Number VA 2-094-622, effective as of March 2, 2018 (the “Certificate”). A true and correct copy of the Certificate is attached hereto as Exhibit B.

**B. Defendant’s Infringing Activities**

12. On or about March 9, 2018, Defendant ran an article on the Website entitled “*The blurring of racial lines won’t save America . . . Why ‘racial fluidity’ is a con.*” See <https://www.cnn.com/2018/03/02/us/racial-fluidity/index.html> (the “Article”)

13. Defendant’s Article prominently featured the Photograph. A print-out of the Article as it appears on the Website is attached hereto as Exhibit C.

14. Commercial advertisements on Defendant’s Website appear adjacent to, below or above the Photograph.

15. Defendant did not obtain a license from Plaintiff to publish the Photograph on the Website.

16. Defendant did not have Plaintiff’s permission or consent to publish the Photograph on its Website.

17. Prior to publishing the Photograph on its Website, Defendant did not communicate with Alcorn.

18. Subsequent to publishing the Photograph on its Website, Defendant did not communicate with Alcorn.

**CLAIM FOR RELIEF**  
**(COPYRIGHT INFRINGEMENT AGAINST CNN)**  
(17 U.S.C. §§ 106, 501)

19. Plaintiff incorporates by reference each and every allegation contained in Paragraphs 1-18 above.

20. Defendant infringed Plaintiff’s copyright in the Photograph by reproducing and publicly displaying the Photograph on the Website. Defendant is not, and has never been,

licensed or otherwise authorized to reproduce, publically display, distribute and/or use the Photograph.

21. The acts of Defendant complained of herein constitute infringement of Plaintiff's copyright and exclusive rights under copyright in violation of Sections 106 and 501 of the Copyright Act, 17 U.S.C. §§ 106 and 501.

22. Upon information and belief, the foregoing acts of infringement by Defendant have been willful, intentional, and purposeful, in disregard of and indifference to Plaintiff's rights.

23. As a direct and proximate cause of the infringement by the Defendant of Plaintiff's copyright and exclusive rights under copyright, Plaintiff is entitled to damages and defendant's profits pursuant to 17 U.S.C. § 504(b) for the infringement.

24. Defendant's conduct, described above, is causing, and unless enjoined and restrained by this Court, will continue to cause Plaintiff irreparable injury that cannot be fully compensated by or measured in money damages. Plaintiff has no adequate remedy at law.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff respectfully requests judgment as follows:

1. That Defendant CNN be adjudged to have infringed upon Plaintiff's copyright in the Photograph in violation of 17 U.S.C §§ 106 and 501;
2. That Defendant CNN be ordered to remove the Photograph from its Website;
3. That Plaintiff be awarded Plaintiff's actual damages and Defendant's profits, gains or advantages of any kind attributable to Defendant's infringement of Plaintiff's Photograph;

4. That Defendant be required to account for all profits, income, receipts, or other benefits derived by Defendant as a result of its unlawful conduct;
5. That Plaintiff be awarded pre-judgment interest; and
6. Such other and further relief as the Court may deem just and proper.

**DEMAND FOR JURY TRIAL**

Plaintiff hereby demands a trial by jury on all issues so triable in accordance with Federal Rule of Civil Procedure 38(b).

Dated: Valley Stream, New York  
April 30, 2018

LIEBOWITZ LAW FIRM, PLLC

By: /s/richardliebowitz  
Richard Liebowitz  
11 Sunrise Plaza, Suite 305  
Valley Stream, NY 11580  
Tel: (516) 233-1660  
rl@LiebowitzLawFirm.com

*Attorneys for Plaintiff  
Polaris Images Corporation*